

## **MINUTES**

### **MONTANA HOUSE OF REPRESENTATIVES 56th LEGISLATURE - REGULAR SESSION**

#### **JOINT APPROPRIATIONS SUBCOMMITTEE ON NATURAL RESOURCES AND COMMERCE**

**Call to Order:** By **CHAIRMAN JOHN WITT**, on February 11, 1999 at  
8:03 A.M., in Room 201 Capitol.

#### **ROLL CALL**

##### **Members Present:**

Rep. John Witt, Chairman (R)  
Sen. Tom Keating, Vice Chairman (R)  
Sen. William Crismore (R)  
Rep. Dick Haines (R)  
Sen. Linda Nelson (D)  
Rep. Joe Tropila (D)

**Members Excused:** Chairman Witt ~ until 9:00am.

**Members Absent:** None.

**Staff Present:** Summer Alger, Committee Secretary  
Roger Lloyd, Legislative Branch  
Doug Schmitz, OBPP

**Please Note:** These are summary minutes. Testimony and  
discussion are paraphrased and condensed.

##### **Committee Business Summary:**

Hearing: HB 2 - Dept. of Environmental Quality Budget  
Executive Action: HB 2 - Dept. of Environmental Quality Budget

#### **HEARING ON HB 2 - DEQ BUDGET - PLANING, PREVENTION & ASSISTANCE DIVISION**

**Roger Lloyd** discussed the Alternative Energy Issue on page **C-66**  
of the Legislative Budget Analysis 2001 Biennium: Agency Budgets,  
Vol. 1, January 1999, LFD.

*\*The Legislative Budget Analysis (2001) budget book will not be referred to  
as an exhibit, however, budget information from other sources will be noted as  
exhibits.*

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**Mr. Lloyd** also handed out a sheet of statutes directed towards alternative energy.

**EXHIBIT(jnh34a01)**

**Sen. Keating** gave some history on the issue, then questioned **Mr. Lloyd** on the balance. **Rep. Tropila** asked what the balance is used for.

**Sen. Keating** questioned **Doug Johnson, District Administrator, Cascade Co. Weed & Mosquito Control**, about weed control and the department. **Denise Mills, Administrator, Remediation Division**, replied also. **Curt Chisholm** commented on 319 permits, with **Mike Voleski, MT Association of Conservation Districts**, then **Mr. Lloyd** continued with alternative energy.

**Sen. Keating** gave some input on HB 7, and asked why the alternative energy was not distributed and repealed a long time ago. **Ann Danzer** replied, and then he inquired if there is another program or account that is similar.

**Sen. Nelson** asked if anyone has known about this loan program, then **Sen. Keating** questioned the number of outstanding loans. **Rep. Haines** asked **Mr. Lloyd** if the \$96,954, on page **C-66** of the LBA 2001 budget book, is an outstanding loan.

**Sen. Keating** asked what the biomass program is and its source of funding. **Lou Moore** replied. **Rep. Tropila** inquired about the funding match, and **Rep. Haines** asked for the division to elaborate on the program.

**Rep. Tropila** remarked that he would move the spending authority, however, **Mr. Lloyd** responded that no motion is necessary. **Sen. Keating** asked **Ms. Danzer** how long the loan is for. **Mr. Lloyd** asked **Sen. Keating** if it is his intent that these statutes be eliminated in the next two years. He replied yes, then asked if the committee wants another committee bill. **Mr. Schmitz** inquired if it is the intent to repeal all alternative energy.

**Sen. Nelson** commented that she is not understanding. If there is money there, then why is there not a grant program. **Sen. Keating** asked for clarification of match monies, and **Rep. Haines** commented on snowmobile air quality emissions and alternative fuels. **Mr. Chisholm** asked the committee if the division could prepare a report on the account and the alternatives for use of that account and bring it back. **Sen. Nelson** asked that they coordinate what they want with what is in the law.

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**Mr. Compton** addressed their new proposal on page PPAD 24 of the DEQ overview packet (Exhibit 3, 2/9/99).

**Sen. Keating** questioned **Mr. Compton** about DP 3 on page **C-63** of the LBA 2001 budget book, asking if the 319 permit money fits in there. The Senator remarked that he is trying not to spend the \$300,000 of general fund, and wants to fund it from elsewhere ~ additional grant money. **Mr. Chisholm, Director Simonich, and Mike Voleski** commented in reply.

**Sen. Keating** inquired as to what the base appropriation for the total maximum daily load (TMDL) program is for this biennium. He then asked **Mr. Lloyd** how much general fund money was appropriated for the TMDL program last biennium. The Senator next addressed the committee with comments, and asked how much money the committee is going to appropriate to conservation districts.

A general discussion ensued of the \$1.3 million not in the executive budget, along with the new proposal on page PPAD 24 of the DEQ overview packet (Exhibit 3, 2/9/99). **Director Simonich** summarized the TMDL program.

**Sen. Keating** inquired if there is a match required for non-point source pollution. **Ms. Danzer** answered yes, 40% federal and 60% general fund. He then asked if there is any money elsewhere that can be used for matching.

**Sen. Keating** asked how much has been appropriated to conservation districts so far. **Ms. Danzer** replied that she is not sure so far this biennium, though she did hand out a graph depicting Non-Point Source Grant Awards.

**EXHIBIT (jnh34a02)**

In response to the Senators question, **Mr. Voleski** answered that approximately \$600,000 has been appropriated on an annual basis. **Mr. Lloyd** replied approximately \$1.1 million each fiscal year, including approximately \$400,000 general fund per year.

**Mr. Schmitz** questioned **Ms. Danzer**, then commented to **Sen. Keating** in respect to page **C-63** of the LBA 2001 budget book. He said the total of DP 3 would be increased by \$1.2 million. **Sen. Keating** inquired where the FTE is coming from, and **Ms. Danzer** replied that it is a new slot in education/information and reviewing EIS's. **Mr. Lloyd** commented that they may want to make the FTE a new proposal or designate it as one-time-only. There was then further discussion by the committee over the new FTE.

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**EXECUTIVE ACTION ON HB 2 - DEQ BUDGET - PLANING, PREVENTION &  
ASSISTANCE DIVISION**

*{Tape : 2; Side : A; Approx. Time Counter : 8.4}*

**Motion/Vote:** SEN. CRISMORE moved that A NEW PROPOSAL BE ADDED TO THE EXECUTIVE BUDGET FOR SPENDING AUTHORITY OF \$1,220,303 IN FY00 AND \$1,221,159 IN FY01, PLUS 1 FTE, AS ONE-TIME-ONLY AND RESTRICTED. SECONDED by REP. HAINES. Motion carried unanimously.

Mr. Compton remarked that the Planing, Prevention & Assistance Division is done, Mr. Lloyd commented that no further action is needed on indirect costs, because the committee chose to wait.

Break @ 9:15am *{Tape : 2; Side : A; Approx. Time Counter : 13.6}*

**HEARING ON HB 2 - DEQ BUDGET - ENFORCEMENT DIVISION**

Mr. Chisholm introduced John Arrigo, Administrator, Enforcement Division, then commented to Mr. Lloyd that they do have legislative authority to increase air quality fees, and will make a list of the legislation.

Mr. Arrigo gave a brief overview presentation on the Enforcement Division, while referring to the division section in the DEQ overview packet (Exhibit 3, 2/9/99).

Sen. Keating asked about the number of penalties and fines that go into the general fund, and asked for a dollar amount. Mr. Arrigo responded by referring to page ENFORC 10 of the DEQ overview packet (Exhibit 3, 2/9/99). He said that they either go back to the general fund or state special, and none to the federal fund. Sen. Keating then inquired about the attitude of the enforcement personnel: police or ambassadors.

Sen. Crismore commented on his experience with sitting on the Environmental Quality Council (EQC), as did Director Simonich. Sen. Nelson questioned the action taken against those not in compliance, and Mr. Arrigo referred to page ENFORC 6 of the DEQ overview packet (Exhibit 3, 2/9/99). He then commented on heating oil tanks, an interest of Sen. Nelson's.

Mr. Lloyd commented on the present law adjustments in Table 10 on page C-67 of the LBA 2001 budget book, and their funding sources.

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DP 1

**Mr. Arrigo** addressed the FTE's, and **Sen. Keating** inquired if they will lessen the workload in any other area. He then queried how many of the complaints they receive pan out to be anything. **Rep. Tropila** asked about the possibility of collecting more of those penalties/fines that have not been collected so far.

**Sen. Keating** commented that he admires the enforcement division, but is reluctant, however, to grow government. **Director Simonich** directed the committee to just skip on to DP 2.

**Chairman Witt** introduced **Ken Evans**, **Harvey Whorrell**, and **Ken Englent**, **Choteau County Commissioners**, along with **Floyd Danbrook** and **Roger Geraldine**.

DP 2

**Sen. Keating** questioned **Mr. Lloyd** on fixed cost increase, asking if the committee has to wait on action until they look at rates in the Central Management Division.

DP 3

**Mr. Lloyd** commented that the committee may want to decrease the funding for this decision package, and **Mr. Arrigo** agreed.

EXECUTIVE ACTION ON HB 2 - DEQ BUDGET - ENFORCEMENT DIVISION

*{Tape : 2; Side : B; Approx. Time Counter : 29.6}*

**Motion/Vote:** SEN. KEATING moved that DP 3 BE ADOPTED WITH THE ADJUSTMENT OF THE REDUCTION IN GENERAL FUND MONIES FOR GASOLINE AND MAINTENANCE. SECONDED by SEN. CRISMORE. Motion carried unanimously.

HEARING ON HB 2 - DEQ BUDGET - REMEDIATION DIVISION

**Denise Mills**, Administrator, Remediation Division, along with **Theresa Scott**, Sub-Administrator, were introduced by the department. **Ms. Mills** also addressed **Doug Johnson's** weed/mosquito facility and its clean-up. **Sen. Keating** made comments to **Ms. Mills** on SB 298.

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**Ms. Mills** gave an overview presentation of the Remediation Division. She handed out a division overview packet and referred to page RD 1 in it.

**EXHIBIT(jnh34a03)**

**Sen. Keating** inquired if this division is driven mostly by federal law, then asked what other state laws they work under besides MEPA.

**Chairman Witt** referred to page RD 8 of the division overview packet and asked the division to estimate the number of permanent and regulated closed tanks. **Sen. Nelson** asked about the number of tanks that were/are under the "Ma & Pa" gas stations that are considered faulty.

**Chairman Witt** questioned who regulates the systems that are not considered underground, nor are they above ground. **Sen. Nelson** handed a letter to **Ms. Mills** concerning a specific license. **Director Simonich** responded to the letter also.

**Chairman Witt** questioned **Ms. Mills** on contaminate levels and testing. He then asked if an owner had a contaminate problem, if that person could give the division the key. HB 158 was then discussed. **Sen. Keating** asked if this means an addition to the Orphan Share list.

**Sen. Nelson** inquired about heating-fuel tanks, and how the division foresees the businesses handling their heating if they cannot use tanks. **Chairman Witt** commented on the idea of centralized town propane.

**Sen. Keating** asked **Ms. Mills** to elaborate on the Pony Mill pond, and what the division did in the area. He then inquired if there was any detection of pollution in area private wells. **Sen. Crismore** asked about contributions from mining companies. **Director Simonich** commented that the Pony facility was a processing facility, not a mine, so is not under the same regulations. **Sen. Keating** asked about the situation with pit filling.

**Mr. Lloyd** commented on the LFD Issues with this division, beginning with funding and Table 11 on page **C-70** of the LBA 2001 budget book. He then skipped to Other Issues and Table 12 on page **C-75**. He cautioned against over-appropriation, then moved on to pages **C-76** and **C-77**.

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**Ms. Mills** responded to the comments from **Mr. Lloyd**, and drew attention to pages RD 31 and RD 32 of the DEQ overview packet.

**Sen. Keating** asked if she was referring to the Underground Storage Tank (UST) program, and a committee discussion ensued over this issue.

**Sen. Keating** asked about the fee increases, then commented that the division is dealing with fewer tanks, but maintaining the same level of costs. He then asked what the general results were of the 415 inspections done this year. **Chairman Witt** questioned the definition of "proper", and **Sen. Nelson** inquired if HB 158 has the mechanism to increase fees. She then noted that a number of the UST bills are tabled.

**Sen. Keating** questioned Table 12 on page **C-75** of the LBA 2001 budget book, then brought to attention the RIT funding chart on page **C-127**. He asked if the Environmental Quality Protection Fund (EQPF) has been expended, then commented since it has not been entirely. **Ms. Mills** responded to **Mr. Lloyd's** write-up and the Environmental Quality Protection Fund being over-drawn by the end of the biennium. She commented that they are expecting payments from the Dept. of Defense, the railroad, and loan repayments. **Mr. Lloyd** commented that unless the statewide budget and accounting system reflects those payments, he cannot change the sheet. He then commented on page **C-76** of the LBA 2001 budget book, and the federal Surface Mining Control and Reclamation Act (SMECRA) in the abandoned mines program, with **Ms. Mills** responding.

**Sen. Keating** pointed out that oil and gas are mining as well, then pointed out unplugged (open) BLM wells, and that remediation is needed there.

**ADJOURNMENT**

Adjournment: 11:48 A.M.

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REP. JOHN WITT, Chairman

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SUMMER ALGER, Secretary

JW/SA

**EXHIBIT (jnh34aad)**